

Supervisor's Notes

The questions listed below are used to determine whether the notes maintained by a supervisor at the National Institutes of Health (NIH) are an “agency” record covered by the Privacy Act.

Were the notes:

- Created on government time?
- Shared with other employees/officials?
- Filed with official agency records?
- Used in a decision-making process?
- Required to be created by rule, policy, or custom?

If the answer to **ANY** of the above question is **YES**, then the notes are agency records. If the answer to **ALL** of the above questions is **NO**, then the supervisor's notes are not agency records.

Notes compiled by NIH Supervisors **ARE** considered to be agency records when they:

- Become part of an NIH Privacy Act System of Records (SOR);
- Automatically become part of the HHS Privacy Act System of Records Notice (SORN) Number # 09-90-0018 which NIH uses to cover its personnel records;
- Become part of an employee's personnel record, such as the Official Personnel File (OPF) or a performance appraisal, and therefore,
 - Used as the basis for an employment action; or
 - Otherwise treated as an official NIH record.
- Are maintained separately in the appropriate NIH Office of Human Resources (OHR), Client Services Division (CSD), Servicing Branch Team;
- Only accessed by those in the agency with a valid business “need to know” the information contained within the records; and
- Secured at all times.

Notes compiled by NIH Supervisors **ARE NOT** agency records when they are:

- The personal property of the supervisor only;
- Never shared with others or circulated;
- Never passed to replacement supervisors or those acting for them;
- Used as memory joggers only; and
- Not required or used for an official agency purpose.

Tips for Supervisors to Remember when Creating Notes:

- Notes taken must always be professional and factually based;
- Subjective language should not be used when making notes;
- Personal comments about an individual's appearance, physical characteristics, personality, etc. should never be made; and
- Notes taken apply to both paper and electronic records.

Tip for Supervisors to Remember when Keeping Notes:

Notes placed in a paper file or sent to an e-mail file folder labeled with an employee's name or other identifier linked to that employee and which is retrieved by that name or identifier, if requested, must be released to the requester under the Privacy Act. The file folder and all of its contents must be released in response to the request. None of the items can be removed from the folder and neither the folder nor its contents can be destroyed.